

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2015.02.13 14:30
I attest to the accuracy and
authenticity of this document

CRM No. M-31115 of 2014 (O/M)
Date of decision : 13.2.2015

Mulakh Raj and another

..... Petitioners

Versus

Lehmbar Ram

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Navdeep, Advocate, for the petitioners.

None for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J.

Petitioner No. 1 Mulakh Raj, a retired Kanungo and petitioner No. 2 Harmail Chand, Patwari of Circle Chuheki, Tehsil Phillaur, District Jalandhar, have sought quashing of complaint No. 449/1/04 dated 11.8.2004 (Annexure-P-1) titled as Lehmbar Ram Versus Mulakh Raj Kanungo and another, pending before the learned Judicial Magistrate 1st Class, Phillaur, and the summoning order dated 9.9.2006 (Annexure-P-6) passed under Sections 468, 465 and 466 IPC. They have also sought the setting aside of order dated 1.9.2011 (Annexure-P-7), passed by the learned Judicial Magistrate 1st Class, Phillaur, whereby the charges were framed against them.

A perusal of the file shows that the complaint before the trial Court was filed on 11.8.2004. In the said complaint, the allegations against accused were levelled regarding sub dividing of khasra number in order to give undue benefit to one Mangat Ram, who was plaintiff in Civil Suit No. 863 of 1991. As a result of the manipulation, the said civil suit was ultimately decided in favour of the complainant. The allegations were also levelled of preparing forged field book as well as Akshajra without any order of competent authority.

I have heard learned counsel for the petitioner and have also carefully gone through the file.

I am of the view that this petition will fail on the sole ground of delay. In this case, summoning order was passed on 9.9.2006 (Annexure-P-6). The petitioners from the time of the summoning order till the framing of charge remained silent. The powers under Section 482 Cr.P.C. are discretionary in nature. When the summoning order dated 9.9.2006 (Annexure-P-6) was passed, the petitioners had the first occasion to approach the Sessions Court for appropriate relief and if the same was not granted, they could approach this Court. This was not done. This Court has called for the report of the Judicial Magistrate 1st Class, Phillaur, who has reported that the complainant has already examined 3 witnesses. One of the accused Mangat Ram is a proclaimed offender. Further

cross-examination of the witnesses is not being done by the complainant on the ground that they have already filed a revision before this Court. The revision filed against the order of the learned Magistrate, framing charges, was dismissed by the learned Additional Sessions Judge, Jalandhar, vide order dated 25.7.2014.

Learned Magistrate as well as the learned Additional Sessions Judge have given sufficient reasoning in support of the order, framing charges. Therefore, on the ground of inordinate delay, I do not find it a fit case where discretionary powers under Section 482 Cr.P.C. should be exercised to quash the complaint dated 11.8.2004 (Annexure-P-1).

Accordingly, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

13.2.2015
sjks